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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,073	06/15/2006	Jacques Le Gars	28944/40178	9184

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MCCRACKEN & FRANK LLP
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CHICAGO, IL 60606

EXAMINER

CROSLAND, DONNIE L

ART UNIT	PAPER NUMBER
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2612

MAIL DATE	DELIVERY MODE
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01/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,073

Applicant(s)

LE GARS, JACQUES

Examiner

DONNIE L. CROSLAND

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11-28-06; 11-13-06</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 and 1-4, 21, 23-28 of copending Application No. 10/573,237 and 10/597,834 respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because with respect to 10/573,237, the artisan recognizes that the locking device is functional equated to the claimed blocking device since the advantages are similar. The locking stations are equated to the claimed storage area. The communication system is represented in claim 8 of 10/573,237

With respect to 10/597,834, the artisan recognizes that the recited cycle storage area is obvious over the infrastructure as recited in 10/573,237. The recited blocking device and electrical lock device are obvious over the functional element as recited in claim 21 of 10/597,834.

The artisan recognizes that storage of bicycle in 10/573,237 is clearly within the capabilities of the skilled artisan and such would have been obvious.

The communication interface is recited in 10/573,237.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, "said second communications interface" lacks antecedent basis since "second short-range wireless communications means" has been recited.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yui et al (2002/0174077) in view of Siemens (EP 1281588, cited by applicant).

Yui shows an automatic cycle storage system (rental system, paragraph 0327) comprising a plurality of cycles each which carries a blocking device such as a tire lock for bicycles, paragraph 0325 or the mechanism 117 and an electronic circuit 111, figure 2; at least one cycle storage area serving to receive the cycles while they are not being used, (area for rental system for storage of cycles, paragraphs 0002, 0006, and 0327); at least one control device 2 adapted to authorize, selectively, cycles to be borrowed (rented) from the storage area, (paragraphs 0013, 0015, 0049, and 0059, permission information); wherein the blocking device of each cycle is mounted to move between a blocking position to prevent movement or use of the cycle (tire lock of cycle in paragraphs 0075, 0324 and 0325), and a second releasing position in which the blocking device does not interfere with the moving member and enables cycle use; (paragraphs 0022); wherein the control device 2 is stationary and is provided with a first wireless communication interface 213 (such is not limited to the storage area, the artisan recognizing range or area of coverage being a design criteria as evidenced by

the location or potential location of the electronic circuit of the cycle); wherein each cycle is provided with second communication means 113 (figure 2) adapted to communicate with the first communication interface 213, the second communication interface 113 being connected to the electronic circuit 111 of the cycle; wherein the cycle includes an electrical lock device 117 controlled by the electronic circuit 111 of the cycle and adapted to lock the blocking device 117 (includes both the lock and blocking device) in the blocking position; and wherein the control device 2 is adapted to control the blocking device of each cycle via the first communications interface 213 and the second communications interface 113 of the cycle.

Yui does not suggest short range wireless communications.

The artisan recognizes that the range of coverage whether short or long is within the capabilities of the skilled artisan and clearly would be a matter of choice as determined by design.

The artisan clearly recognizes the use of short range transmission when the control device is employed with respect to a cycle storage system.

Siemens shows a cycle locking/unlocking device 14 being located on the cycle 10 and controlled through a short range wireless communication interface 42 from device 24 as shown in figure 1.

It would have been obvious to one having ordinary skill in the art to provide a short range wireless communication interface in the cycle locking/unlocking system of Yui because the use and advantages of a short range wireless communication interface in a cycle locking/unlocking system is suggested by Siemens.

Any advantages realized are those naturally expected to occur due to the short range wireless link.

With respect to claim 3, note device 2 that includes data communication interface 213 for causing the cycle to be unlocked, paragraph 0059 and 0086.

With respect to claim 4, a server is realized in the system that includes network 12 in Siemens, the user being illustrated as 30 in figure 1. Also see paragraph 0071 of Yui.

With respect to claim 5, see indicator 121, see paragraphs 0079 and 0124.

With respect to claim 6, see radio communications in figures 2 and 3 of Yui.

With respect to claim 7, see Bluetooth communications 40 in Siemens.

Allowable Subject Matter

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horton (figure 1), and Varis et al (figure 3), show bicycle systems that include blocking/locking devices with a communication interface associated therewith on a bicycle

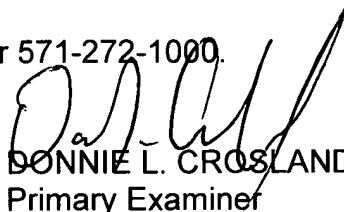
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is 571-272-2980. The examiner can normally be reached on Mon-Thur. 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL J. WU can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DONNIE L. CROSLAND
Primary Examiner
Art Unit 2612

DLC 
1-18-08